

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

KELLIE CHASTAIN JOHNSON,

§

Plaintiff,

§

V.

§

No. 3:13-cv-1793-M

WELLS FARGO BANK, NA, ET AL.,

§

Defendants.

§

ORDER

The United States Magistrate Judge made Findings, Conclusions, and Recommendations in this case. Plaintiff filed objections on February 5, 2014, and the District Court has made a *de novo* review of those portions of the proposed Findings, Conclusions, and Recommendation to which objection was made. The objections are overruled, and the Court ACCEPTS the Findings, Conclusions and Recommendations of the United States Magistrate Judge.

Defendant's motions to dismiss [Dkt. Nos. 9 & 22] are GRANTED with prejudice as to Plaintiff's claims based on: (1) breach of contract based upon Defendant's lack of authority to foreclose; (2) breach of contract and waiver based upon oral promises allegedly made in connection with loan modification; (3) common law fraud insofar as it is based on Defendant's lack of authority to carry out actions against Plaintiff; (4) unjust enrichment; (5) negligence or negligent misrepresentation; (6) Chapter 51 of the Texas Property Code; and (7) the Texas Debt Collect Act based on based on Defendant's lack of authority and statements regarding loan modification.

Defendants' motions to dismiss are GRANTED without prejudice as to (1) Plaintiff's TDCA claim based upon misrepresentations regarding amounts owed on her mortgage loan and alleged wrongful charges; (2) Plaintiff's RESPA claims; and (3) Plaintiff's requests for declaratory judgment, injunctive relief, and an accounting.

Plaintiff may file an amended complaint as to those claims that should be dismissed without prejudice within 21 days of the date of this Order. If Plaintiff fails to do so, the case will be dismissed with prejudice without further notice.

SO ORDERED this 24th day of February, 2014.



BARBARA M. G. LYNN
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF TEXAS